

## **REMARKS**

Reconsideration of the first Office action issued in connection with the above-identified patent application is requested in view of the foregoing amendments and the following remarks. Prior to entry of the above amendments, claims 1-77 were pending and stand rejected. With the entry of the above amendments, claims 15-16, 18-20, 22-23, 29, 33, 35, 37-39, 42-48, 50-51, 54, 56-62, 64 and 77 are cancelled without prejudice, claims 1-4, 8-11, 24-27, 30-31, 34, 40-41, 49, 55, 63, 65, 68-69, 72 and 76 are amended, and new claims 78-109 are added.

As an initial matter, Applicant thanks the Examiner for his time considering not only the relatively large number of pending claims in the present application, but also the many references submitted in Applicant's original and supplemental Information Disclosure Statements. In view of this, Applicant has amended or cancelled many of the original dependent claims without prejudice to permit the addition of several newly considered claims and claim dependencies without increasing the overall number of pending claims. For example, Applicant has consolidated claims 4 and 5, consolidated claims 29 and 31, consolidated claims 33 and 34, consolidated claims 49-50, consolidated claims 55-56 and 59 and 61, consolidated claims 64 and 65, and consolidated claims 76 and 77. Accordingly, claims 29, 33, 50, 56, 59, 61, 64, and 77 are cancelled without prejudice. Similarly, claims 15-16, 18-20, 22-23, 35, 37-39, 42-48, 51, 54, 57-58, 60, and 62 have been cancelled without prejudice to reduce the number of claims pending after entry of the above amendments and to thereby defer continued prosecution of these claims until a related application is filed.

As discussed in more detail herein, Applicant respectfully disagrees with the rejections made in the Office action and thereby is amending and/or canceling without prejudice these dependent claims simply to not increase the overall number of original claims and accordingly to be considerate of the Examiner's time considering the claims that are pending after entry of the above amendments. Applicant expressly reserves the right and his intent to resume prosecution of the originally pending claims in a related application.

In the Office action, claims 8-11 and 24-27 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. More particularly, the Examiner's position is that the use of "approximately" in the claims renders the scope of the claims indefinite. Applicant respectfully disagrees that the scope of the claims is not sufficiently clear and distinct, with the use of the term expressly providing that the claims have scope beyond the expressly recited claims. However, as removal of these terms is not being made in view of a prior art-based rejection, Applicant has amended the claims to remove this term and to rely instead upon the extended scope provided under the doctrine of equivalents. Applicant has also amended claims 30 and 72 to recite a "household-type drying machine" instead of a "household drying machine" and thereby utilize the terminology defined on pages 9 and 10 of the present application. Applicant has also rewritten claim 42 in independent form as new claim 100, with claims 42 and 43 accordingly being cancelled without prejudice.

Turning now to the prior art-based rejections in the Office action, claims 1-62 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,658,651 to Smith. Applicant has studied the cited reference to Smith and respectfully

traverses the rejections based thereupon. Applicant agrees with the Examiner that Smith discloses a fabric softening or fabric treatment composition and that Smith's composition may include 2-75 wt% of organic solvent and 15-55 wt% water, amongst other components. However, Applicant respectfully disagrees that Smith anticipates original claims 1-62 or the presently pending claims. Instead, Applicant submits that several important distinctions exist between the disclosed compositions, articles and methods recited in the pending claims and those disclosed in Smith.

As a principal distinction, Smith simply does not disclose or suggest a dry cleaning composition. Instead, Smith is specifically directed to a fabric softening or treatment system for wet, laundered clothes, a significant difference from clothes that need to be dry cleaned. As discussed in the Background of Smith, the object of Smith is to provide a mechanism for delivering liquid fabric softener to wet, laundered clothes as the clothes are tumbled in a dryer, as opposed to adding the liquid fabric softener to the wash cycle or using sheets containing dry fabric softeners. In the Summary and Detailed Description of Smith, repeated and consistent reference is made to applying Smith's fabric softening composition to wet clothes that have just been washed in a household washing machine. As an illustrative example, on page 2, line 24-26, Smith summarizes the disclosed composition as being designed to provide "a fabric-treatment system that imparts softening, antistatic and/or other desirable properties to laundered, i.e., moistened (wet), fabric articles."

As such, Applicant submits that since Smith fails to disclose a dry cleaning composition, it follows that Smith cannot anticipate original claims 1-62. Furthermore, because of the significant differences between wet, laundered clothes and

clothes that are dry cleaned, it follows that Smith specifically teaches away from dry cleaning and therefore cannot render obvious the rejected claims. Despite these fundamental differences between Smith and the originally pending claims, Applicant has amended claim 1 to more clearly recite that the dry-cleaning article is adapted to receive and selectively dispense a dry-cleaning composition to dry garments as the garments are tumbled with heated air in a drying machine. Applicant submits that amended claim 1 patentably distinguishes Smith and therefore requests that the rejection of claim 1 be withdrawn. Amended claim 1 is reproduced below for the Examiner's convenience.

1. (Currently Amended) A dry-cleaning article for use in a drying machine, the dry-cleaning article comprising:

a carrier adapted to receive and selectively dispense a dry-cleaning composition to garments as the garments are tumbled with heated air in a drying machine; and

a dry-cleaning composition received by the carrier, wherein the dry-cleaning composition includes active components comprising water and organic solvent, wherein the organic solvent includes at least one organic solvent that, and further wherein the at least one organic solvent forms the greatest individual percentage by weight of the active components and is selected from the group consisting of at least one of paraffins, olefins, acetylenes, siloxanes, acetates, chloro-fluorocarbons, and mixtures thereof.

As indicated above, Applicant has also amended claim 1 to focus, at this time, upon a dry-cleaning composition that includes active components that comprise water and organic solvent, with the organic solvent including at least one organic solvent that forms the greatest individual percentage by weight of the active components and which is selected from the group consisting of at least one of paraffins, olefins, acetylenes, siloxanes, acetates, chloro-fluorocarbons, and mixtures thereof. Applicant submits that Smith not only fails to disclose such a dry-cleaning, or other, composition, but also that Smith specifically and expressly requires that its composition includes

glycol ethers as the majority component of its organic solvents. For example, on column 9 of Smith, the organic solvents required by Smith are described as containing a glycol ether as the major portion thereof. Smith follows that “minor amounts” of alcohols, ketones, polyols or hydrocarbon solvents can also be included as co-solvents.

Since neither glycols nor ethers are recited in the Markush group of amended claim 1, it follows that Smith cannot anticipate amended claim 1. While these components may be present in a composition according to amended claim 1, they cannot form the at least one organic solvent that forms the greatest individual percentage by weight of the active components of the composition. Furthermore, even if “major” is construed to mean just over 50% of the organic solvent, and “minor” is broadly construed to mean up to just under 50% of the organic solvent, Smith expressly limits the amount of these co-solvents to less than 37.5% of the composition. For at least these additional reasons, Applicant submits that amended claim 1 patentably distinguishes Smith and therefore should be allowable over the references of record.

The remaining ones of claims 2-62 and new claims 78-84 depend directly or indirectly from amended claim 1 and therefore should be allowed when amended claim 1 is allowed. For the purpose of brevity, and in view of the above-discussed distinctions between Smith and amended claim 1, each of these claims and each additional reason why these claims patentably distinguish Smith are not discussed in detail in this response to the Office action. However, Applicant wants to briefly discuss several of the pending claims and to present a few additional reasons why these claims are neither anticipated nor rendered obvious by Smith.

Amended claims 2 and 3 depend from amended claim 1 and respectively recite that the at least one organic solvent that forms the greatest individual percentage by weight of active components in the composition is at least substantially comprised of at least one paraffin or at least one siloxane. As discussed above, Smith specifically requires a maximum amount of the organic solvent to be a glycol ether, and specifically limits any hydrocarbon, such as a paraffin, to be a minor component. Accordingly, Smith not only fails to disclose the subject matter of amended claim 2, but also specifically teaches away from it. Smith fails to disclose or suggest any use of siloxanes, much less having siloxanes form at least a substantial portion of the organic solvent. Accordingly, it follows that amended claim 3 patentably distinguishes Smith.

Original claim 21 and new claims 78-79 recite that the composition includes at least one fluorosurfactant. Smith fails to disclose any use of fluorosurfactants. Accordingly, it follows that Smith cannot anticipate claims 21 or 78-79. Since Smith also fails to suggest such a surfactant, Applicant submits that Smith does not render these claims obvious. Claims 78-79 depend from amended claims 2-3, respectively, and therefore also should be allowed for the reasons expressed above with respect to those claims.

Amended claims 24-27 and new claims 80-82 recite that the composition has a flashpoint that is greater than various threshold values. Claims 24-27 recite flashpoints of 150° F, 170° F, 200° F, and 232° F, respectively, and claims 80-82 recite flashpoints of 200° F. Smith fails to provide any disclosure about the flashpoint of its composition. Applicant submits that the reason for this may be that Smith's composition is designed for use only with wet laundered clothes and therefore any vapors from the

composition will be substantially diluted with water vapor as the clothes and composition are dried. Regardless, Smith does not provide any disclosure regarding the flashpoint of its composition. Accordingly, it follows that Smith fails to disclose the subject matter of claims 24-27. Claim 28 further recites that the composition has a flashpoint that is greater than the maximum operating temperature of the drying machine into which the composition and garments are placed. Claims 80-82 depend from claims 2-3 and 21 and therefore also should be allowable for the reasons expressed above with respect to those claims.

Claim 52 recites that the article includes not only the above-discussed organic solvent-containing dry-cleaning composition, but also at least one application-specific composition. Claim 52 further recites that the at least one application-specific composition is received by the carrier separate from the dry-cleaning composition. As discussed, Smith fails to disclose or suggest a dry-cleaning composition, much less the dry-cleaning composition recited in amended claim 1. However, Applicant also requests that the rejection of claim 52 be reconsidered and withdrawn because Smith fails to disclose or suggest that the composition-containing carrier include a cleaning composition, as well as at least one application-specific composition that is received by the carrier separate from the cleaning composition. Instead, Smith discloses only a single composition that is applied to its carrier sheets, with Smith containing no teaching or disclosure to include two different compositions on the sheets, much less to have these compositions be separately received on the sheets. For at least this additional reason, Applicant submits that claim 52 patentably distinguishes Smith and the other references of record and should be allowed.

Amended claims 41 and 55 depend from claim 52 and therefore should be allowed when claim 52 is allowed. Amended claim 41 further recites that the carrier includes an impermeable layer that separates the at least one-application specific composition and the dry-cleaning composition. As discussed above, Smith fails to disclose or suggest any dry-cleaning composition, or a carrier that separately receives a dry-cleaning (or other) composition and at least one application-specific composition. Accordingly, it follows that Smith fails to disclose or suggest a carrier that includes an impermeable layer separating a dry-cleaning composition and at least one application-specific composition. For at least this additional reason, Applicant submits that amended claim 41 patentably distinguishes the cited references and should be allowable. Amended claim 55 recites various application-specific compositions that are not disclosed or suggested by Smith. Applicant further submits that Smith teaches away from the recited application-specific composition because Smith discloses only a fabric softening or treatment composition that is designed for use after the garments have been laundered using a conventional laundering process and detergent. As such, any stain removal would be performed during the laundering process, which Smith's composition follows and for which Smith's composition is not disclosed as being an alternative.

Claims 69-77 also stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,658,651 to Smith. Applicant respectfully traverses the rejection for at least the fact that Smith discloses only a softening or treatment composition for use on wet laundered clothes, and not a dry-cleaning composition or method of using the same. Applicant has amended claim 69 to expressly recite this distinction.



69. (Currently Amended) A method for cleaning garments, the method comprising:

placing at least one dry garment to be cleaned and a dry-cleaning composition in a drying machine normally adapted for drying wet garments from a washing machine, wherein the dry-cleaning composition comprises:

at least one organic solvent; and

water, wherein the at least one organic solvent forms the greatest individual weight percentage of the dry-cleaning composition; and

tumbling the at least one garment and the dry-cleaning composition in the drying machine in heated air generated by the machine such that the at least one dry garment and the composition are exposed to the heated air during the tumbling step.

As indicated above, amended claim 68 recites not only that the method involves the use of a dry-cleaning composition, but also that the composition is used with at least one dry garment to be cleaned. In contrast to this subject matter, Smith discloses only the use of a softening or treatment composition that is used not only with a wet garment, but also with a garment that has just been cleaned in a conventional washing machine. Therefore, Applicant submits that Smith fails to disclose or suggest the subject matter recited in amended claim 69. Amended claim 69 further recites that the garment and composition are tumbled in a drying machine, with the garment and composition being exposed to heated air during the tumbling step. In further contrast to the recited subject matter of amended claim 69, Smith's method requires that the composition and garment are placed within a bag into which water and other gases can exit through pores or specialized flaps as pressure within the bag increases. As such, Smith appears to disclose only a bag that permits the gases within the bag to exit the bag, and not a bag that permits exposure of the garment and composition to the heated air. For at least the above reasons, Applicant requests reconsideration and withdrawal of the rejection of claim 69.

Claims 70-77 and new claims 91-99 depend from claim 69 and therefore should be allowed when amended claim 69 is allowed. Because of the substantial differences between the subject matter recited in amended claim 69 and the cited references, Applicant believes that a detailed discussion of each of these dependent claims and each additional reason why the dependent claims further distinguish the references of record will not be necessary. However, Applicant wants to briefly mention a few of these dependent claims.

New claims 91-93 respectively recite that the composition has a flashpoint greater than 200° F, that the composition includes at least one paraffin, siloxane or mixtures thereof, and that the composition includes at least one fluorosurfactant. Applicant submits that Smith fails to disclose or suggest the subject matter of these dependent claims, as discussed previously with respect to claims 2-3, 21 and 26.

New claim 95 recites that the dry garment used in the method is not suitable for laundering in a household washing machine. As discussed, claim 69 is directed to a method for dry-cleaning garments in a drying machine. In contrast to this method, Smith discloses only a method for softening or otherwise treating wet garments that have just been laundered with water in a conventional washing machine. Therefore, it follows that Smith not only fails to disclose the method of claim 95, but also teaches away from such a method.

New claim 96 recites that the composition further includes a binder that is adapted to form the composition into a solid article, and claim 97 recites that the composition further includes a gelling agent. Applicant submits that Smith does not disclose or suggest anything other than a liquid composition that is permeated into an

absorbent sheet. In fact, Smith's stated objectives are to "provide a method of softening fabric articles in the home automatic dryer with liquid fabric softener ingredients ...." (see Smith, column 2, lines 10-13). Accordingly, Applicant submits that new claims 96 and 97 patentably distinguish Smith and the other references of record.

New claim 98 recites that the method includes fastening the composition to a compartment within the drying machine. Applicant submits that Smith does not disclose and cannot suggest such a method because Smith requires that the composition be placed within a specialized bag that tumbles within the drying machine as the machine is used. Since the composition is secured within the bag, it follows that it cannot be secured to a compartment within the drying machine.

New independent claim 100 recites, in part, similar subject matter as original claim 42. More specifically, independent claim 100 recites a dry-cleaning article for use in a dry cleaning machine, with the article comprising the dry-cleaning composition recited in original claim 1, as well as a binder adapted to form a solid article from the composition. As discussed above with respect to new claim 96, Smith not only fails to disclose any dry-cleaning composition, but also specifically recites that its goal is to provide a method for delivering liquid fabric softener in a dryer. For at least the above reasons, Applicant submits that claim 100 patentably distinguishes Smith and the other references of record.

New claims 102-109 depend from claim 100 and therefore should be allowed when claim 100 is allowed.

Original claims 63-66 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Nos. 5,658,651 to Smith, 4,659,332 to Hellsten, and 5,858,022

to Romack. Applicant has studied the cited references and respectfully traverses the rejections based on Smith. As discussed, Smith fails to disclose any dry-cleaning composition, much less the composition recited in the original or pending claims. However, Applicant agrees with the Examiner that Hellsten and Romack disclose dry-cleaning compositions that contain water and a majority of organic solvent. However, Hellsten and Romack disclose industrial dry-cleaning compositions that are not adapted for use in household or other drying machines. Furthermore, Hellsten and Romack are both very specific that the dry-cleaning compositions should be used at ambient temperatures, and thereby not exposed to heated air during use. Additional distinctions are that Hellsten discloses only an extremely toxic organic solvent, namely, perchloroethylene (which is more commonly known as "perc"), and Romack discloses only dry-cleaning compositions that include carbon dioxide as a primary solvent. Applicant has amended claim 63 to more clearly express these differences. Applicant submits that amended claim 63 patentably distinguishes the cited references. Amended claim 63 is reproduced below for the Examiner's convenience.

63. (Currently Amended) A dry-cleaning composition adapted for use in a drying machine, the dry-cleaning composition comprising:  
at least one organic solvent having a primary component selected from the group consisting of paraffins, olefins, acetylenes, siloxanes, acetates, chloro-fluorocarbons, glycols and mixtures thereof, wherein the at least one organic solvent is nontoxic and non-carcinogenic in the concentration present in the composition, wherein the composition is adapted for use in heated air in a household-type drying machine, and further wherein the at least one organic solvent forms the greatest individual percentage by weight of the composition;  
water; and  
at least one emulsifier.

Claims 65-68 and new claims 85-90 depend from amended claim 63 and therefore should be allowed when amended claim 63 is allowed. These claims recite subject matter that is similar to the subject matter recited in many of the above-discussed dependent claims. In the interest of not making this already lengthy response any longer, each of these dependent claims is not being discussed in detail at this time.

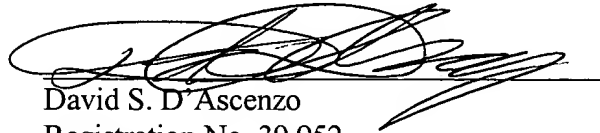
Claims 1-68 stand rejected under the judicially doctrine of obviousness-type double patenting in view of Applicant's U.S. Patent No. 5,965,504, and claims 1-77 stand rejected under the judicially created doctrine of obviousness-type double patenting in view of Applicant's U.S. Patent No. 6,190,420. Applicant agrees with the Examiner that some of the originally and presently pending claims could have been presented in either of Applicant's cited U.S. patents from which the present application is a continuation-in-part. However, the present application and many of the original and pending claims disclose and recite subject matter that simply is neither disclosed nor suggested in Applicant's cited patents. For example, the present application discloses compositions, organic solvents, surfactants, articles and methods of use that are not present in Applicant's cited patents. However, Applicant is submitting with this Amendment a terminal disclaimer to permit allowance of those of the pending claims that are fully supported by the disclosure of Applicant's cited patents.

With the entry of the above amendments and for at least the reasons expressed herein, Applicant submits that each of the issues raised in the Office action has been addressed and overcome. Applicant thanks the Examiner in advance for his time considering the claims pending after entry of the above amendments and Applicant's explanation of the distinctions between the claimed subject matter and the subject matter

disclosed in the cited references. If the Examiner identifies any remaining issues or believes that a telephone interview would be productive to advance prosecution of the present application, Applicant invites the Examiner to contact Applicant's undersigned attorney at the number listed below.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'David S. D'Ascenzo', is written over a horizontal line.

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